

No. 14/13/87-6Lab./855.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s. The Chief Executive International Ceramics Ltd., Pouli (Jind) *versus* Ram Dhari.

IN THE COURT OF SHRI P.L. KHANDUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ROHTAK

Reference No. 188 of 1994

Between

SHRI RAM DHARI, S/O SHRI BARE SINGH, VILLAGE, KHARAK JATTAN, P. O. BAINSI,
DISTRICT ROHTAK .. *Workman*

and

THE MANAGEMENT OF M/S THE CHIEF EXECUTIVE INTERNATIONAL CERAMICS LTD.,
POULI, DISTRICT JIND. .. *Management*

Present :

Shri J. K. Nandal, Authorised Representative for the workman.

None for the Management (*ex parte*).

AWARD

In exercise of powers conferred by Sub-Clause (c) of Sub-Section (1) of Section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana has referred the following dispute, between the parties, named above, to this Court for adjudication, —vide Labour Department Endorsement No. ID/Bhuiwani/133-93/32742-47, dated 27th Augut, 1993 :—

Whether the termination of the services of Shri Ramdhari is justified and in order ? If not so, to what relief he is entitled ?

2. The workman and the management were summoned. The workman appeared and filed the claim statement that he was appointed as a Maintenance Technician by the respondent in the grade of Rs. 1400 Basic pay plus allowances,—vide appointment letter No. ICL/Pers/ 90/205, dated 5th November, 1990. In view of good work and conduct the applicant was further promoted as Maintenance Supervisor,—vide letter dated 1st October, 1991. That the services of the applicant were illegally terminated all of a sudden w.e.f. 10th January, 1993,—vide letter No. Adm/Pers/93/081, dated 10th January, 1993 without any proper charge-sheet, domestic enquiry, show cause notice, opportunity of personal hearing, payment of any compensation and without following the law provisions of Industrial Disputes Act. As such the termination is highly illegal, unjustified, void, improper, *mala fide* and honest in the eyes of law, because before his termination the applicant was neither supplied with any report of investigations or enquiry conducted against him, if any, nor he was given the details of any evidence/documents or witnesses which relied upon while effecting the termination of services. The applicant was designated as Maintenance Supervisor yet the duties performed by him were of manual skilled and technical in nature. He always used to work the maintenance job on the machines with his own hands and he was not having any authority either to sanction leave or appoint anyone or to initiate and take and disciplinary action against the workers who were working in the maintenance section. The applicant therefore, falls in the definition of a workman and the respondent is an industry. Hence the claim petition was filed that the applicant be reinstated with continuity of service and full back wages, consequential relief apart from the cost, expenses and interest @ 18% per annum be also allowed on the back wages/arrears.

3. The management had filed the written statement that applicant is not a workman and he was working in the capacity of supervisor and under him 10 persons were working at his command. His total salary was more than Rs. 1600. The workman was promoted as alleged in the claim statement. The applicant was found duly involved in theft and the applicant is not entitled to any relief.

4. The replication was filed by the applicant. On the pleadings of the parties, the following issues were framed :—

- (1) Whether the termination of services of Shri Ram Dhari is justified and in order ? If not, to what relief is he entitled ?
- (2) Whether the petitioner is not a workman ?
- (3) Relief ?

5. My findings on the above issues with reasons thereof are as under :—

Issue No. 1 :

6. The workman has come into witness box as WW-1 and also examined namely S/Shri Suresh Kumar as WW-2 and Rajbir Singh as WW-3 and closed his evidence. The management has not appeared and therefore put to cross-examine the witnesses and no evidence lead by the management.

7. WW-2 Suresh Kumar made statement that applicant used to work as maintenance fitter and used to work in the Khurad Machine as Fitter and he had no power to sanction the leave to any person or to appoint any person.

8. WW-3 Rajbir Singh who was made statement that he used to work as Assistant Fitter. The applicant and he used to work in the same section of the respondent/management. The applicant used to work with his his own hand as Fitter and he has no power to grant leave and passing the order etc. The statement of the workman also effected that he has no power to sanction leave etc.

9. Ex. WW-1 is the appointment as maintenance technician by the respondent and to effect that the appointment of workman was for a period of six months from the date of joining, this period may be further extended if his work and conduct are found to be not to the expectations of the management.

10. Ex. WW-2 is the order passed by the management that the management is pleased to promote the applicant as in supervisor capacity with immediate effect. Ex. WW-3 is the order passed by the respondent and sent to workman that since the management received the report pertaining to theft of telephone and alternator from police in which he was mentioned as one of the thieves, therefore the service no longer required.

11. It is thus proved that the workman applicant was removed and he has completed more than 240 days service in a year but without compliance of Section 2 (cc) of the I. D. Act and thus he is protected under Section 25-F of the I. D. Act and no enquiry made against him and no witness was examined. He was not given notice, notice pay or retrenchment compensation. For my above finding I decide this issue in favour of the workman.

Issue No. 2 :

12. This issue is not pressed or argued by the parties. Hence I decide this issues against the management.

Issue [No. 3 (Relief) :

13. In view of my findings on the above issues I accept the reference petition and I hold that the workman is entitled to work in the respondent factory from back date but he is entitled to 50% back wages. The applicant is not entitled to any interest. The parties are left to bear their own costs. The reference is answered and returned accordingly.

The 13th October, 1994.

P. L. KHANDUJA,

Presiding Officer,
Industrial Tribunal/Labour Court,
Rohtak.

Endst. No. ref. 188-94/2718, dated the 27th October, 1994.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh.

P. L. KHANDUJA,

Presiding Officer,
Industrial Tribunal/Labour Court,
Rohtak.